

ILLEGAL ALIENS-- JOLIET

**A REPORT TO THE
ILLINOIS GENERAL ASSEMBLY**



BY THE
ILLINOIS LEGISLATIVE INVESTIGATING COMMISSION

300 West Washington Street, Chicago, Illinois 60606

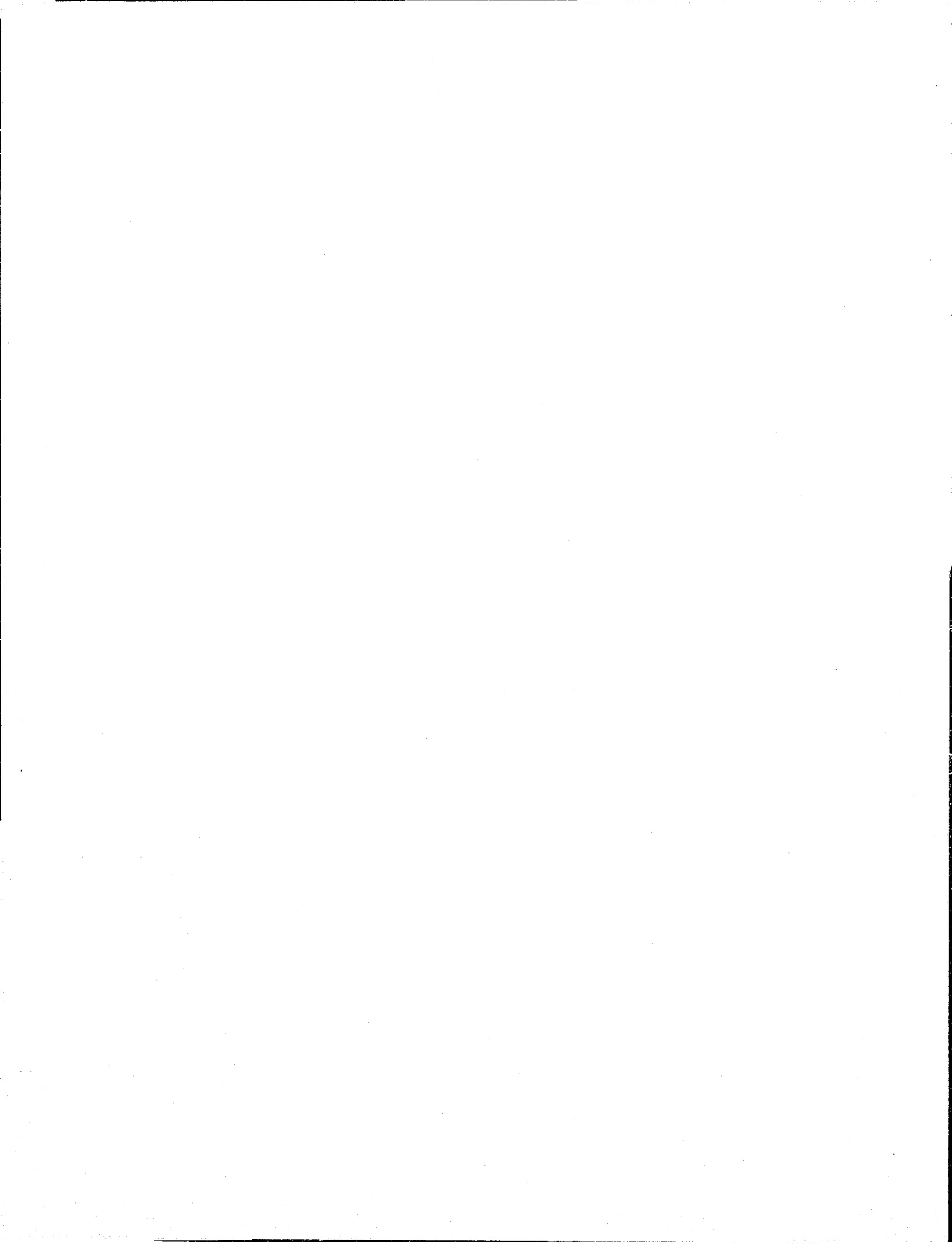
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SENATE RESOLUTION 179

This resolution, sponsored by Senator Robert W. Mitchler, was adopted by the Illinois Senate on June 24, 1977, and is quoted below:

"WHEREAS, It has come to the attention of this body that the City of Joliet may be the main distribution point for illegal aliens coming into the Chicago area from Mexico; and

"WHEREAS, The United States Immigration and Naturalization Service reports that some 20 to 50 illegal aliens are brought to Joliet weekly, particularly from Guanajanto, Mexico; and

"WHEREAS, The aliens are reportedly delivered to jobs in the Chicago area by area residents; and

"WHEREAS, It is theorized that the system is perpetuated by the families and friends of the aliens, who pay about \$1,000 per person to have each alien brought here, of which about \$250 goes to the Joliet distributors, the aliens usually paying off the fee at \$50 per month; and

"WHEREAS, It is felt that there is a formal organization in Joliet to handle distribution, supply documents needed and locate jobs for aliens transported here, which results in a multimillion dollar smuggling business; and

"WHEREAS, The Midwest Director of Immigration estimates that there are 300,000 illegal aliens in the Chicago area, of which about 160,000 are employed, with most of the jobs being in light industry, and the employed aliens being the main target of immigration investigations; and

"WHEREAS, Busloads of 25 to 45 discovered aliens leave Chicago for the return to Mexico at least 3 time per week, and the 900 officers in the United States returned over 800,000 illegal aliens last year, yet the process is slowed by other involvements of the officers in fraud, narcotics and other crimes, and it is felt that only the tip of the "iceberg" has been reached, with many such aliens returning shortly to their jobs; and

"WHEREAS, The aliens themselves are often open to extortion by the smugglers, especially once jobs are obtained, females often forced to work as prostitutes, and the aliens often used in some way by the narcotics rings usually connected with the alien smuggling operators; and

"WHEREAS, The problem is clearly one which requires a serious and broad base of effort to obtain progress in the control and eradication of an economic and inhumane blight; therefore, be it

"RESOLVED, BY THE SENATE OF THE EIGHTIETH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the Illinois Legislative Investigating Commission is directed to investigate the alleged transporting of illegal aliens to Joliet as the main distribution point of such aliens to the Chicago area from Mexico, and to report its findings and conclusions to the Illinois General Assembly as soon as possible."

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TO: HONORABLE MEMBERS OF THE GENERAL ASSEMBLY

This is the report of our findings, conclusions, and recommendations pursuant to Senate Resolution 179, adopted by the Illinois Senate on June 24, 1977.

The Illinois Legislative Investigating Commission has considered the issue of illegal Mexican aliens in Illinois several times before. In 1971, we issued a report to the General Assembly entitled The Illegal Mexican Alien Problem, which described the negative impact illegal Mexican aliens have on the State's economy. This report also profiled the activities of an illegal alien smuggler and described life for some illegal aliens living in Chicago Heights.

In February, 1977, the Commission again researched this problem while preparing draft legislation for the late Commission Co-Chairman Joseph G. Sevcik. That legislation was aimed at employers who "knowingly hired" illegal aliens and was similar to legislation proposed in our 1971 report. This legislation prohibited that practice and established fines for the offense. In both cases the legislation made it through the House but did not pass the Senate.

The current investigation of illegal aliens in Joliet was prompted by a newspaper article which appeared in the Joliet Herald News, describing Joliet as the "main distribution point for illegal aliens coming into the Chicago area from Guanajuato, Mexico." The article said that "20 to 50 aliens are brought into Joliet weekly" by smuggling rings.

In an attempt to substantiate the allegations contained in this article, Commission agents talked to Immigration and Naturalization Service agents (INS), law enforcement officials, illegal Mexican aliens who had been arrested, Hispanic leaders and businesses in Joliet.

We learned that Joliet should not be considered the "main distribution point" for illegal aliens coming from Mexico, although it must be viewed as a "distribution point of note." There are other cities in the Chicago metropolitan area which are just as attractive to illegal Mexican aliens, and Chicago itself harbors considerably more illegal aliens than Joliet.

We did substantiate that Joliet is the headquarters for several family-run smuggling organizations.

Joliet is a popular haven for illegal Mexican aliens for several reasons: there is already a substantial Mexican population; light industry jobs are available which pay fairly well; and the INS rarely gets down to Joliet--so the city has the reputation as a "safe area."

Illinois' problem with illegal Mexican aliens must be viewed in context of the national problem. Last year, over one million illegal Mexican aliens were caught in the United States by the INS. And as the economic disparity between the United States and Mexico widens, more and more Mexicans are likely to sneak into the United States to avoid poverty and make a decent living for their families.

At the national level, President Carter has recently recommended an "amnesty policy" which permits undocumented aliens who have resided in the United States continuously since before January 1, 1970, to be given one year to apply to INS for "permanent resident alien" status. He also proposed a "temporary resident alien" status for undocumented aliens who have resided in this country continuously since before January 1, 1977, but after January 1, 1970. They would have one year to apply for this status and it would last five years. Under this "temporary status" they would be allowed to seek employment while living in the United States.

To date these are just recommendations and no legislation has been adopted or even proposed. In the interim, Illinois and other states faced with the problem of illegal Mexican aliens are left to their own solutions.

Under a recent Supreme Court ruling, it is clear that states have the power to regulate the employment of illegal aliens and to fine employers who knowingly hire illegal aliens. Such legislation is already in existence in ten states.

Therefore, the Commission again recommends that the State of Illinois consider and adopt our proposed legislation contained in Appendix B. While we realize that this bill alone will not solve the problem, it may have a deterrent impact and encourage employers to be more cautious in their hiring practices. Since jobs are the reason illegal Mexican aliens come to Joliet or any place else in Illinois, the Commission believes that the only way to reduce the number of Mexicans coming into the United States illegally is to reduce the availability of jobs.

Both the Chicago branch of the Immigration and Naturalization Service (INS) and the Illinois Department of Labor (IDOL) have reviewed our proposed bill. INS supports the Commission's proposal and IDOL is interested in working with the Commission on ideas for enforcing the bill.

The Commission also urges businesses to voluntarily cooperate with the INS through programs like "Operation Cooperation," which allows an employer to verify a job applicant's alien registration card with the INS prior to accepting him as an employee.

The Commission recommends that Illinois join other states affected by a growing illegal Mexican alien population in urging the federal government to take immediate corrective action.

Respectfully Submitted,

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THIS REPORT IS RESPECTFULLY
SUBMITTED PURSUANT TO SENATE
RESOLUTION 179 ADOPTED BY THE
ILLINOIS SENATE ON JUNE 24,
1977

INTRODUCTION

The Commission's investigation of illegal aliens in Joliet was sponsored by Senator Robert W. Mitchler and was based on allegations found in an article in the Joliet Herald News in May, 1977. The article, "Joliet Distribution Point For Illegal Aliens," characterized Joliet as "the main distribution point for illegal aliens coming into the Chicago area from Guanajuato, Mexico." This information was attributed to reports from the United States Immigration and Naturalization Service (INS).

Some "20 to 50 aliens are brought into Joliet weekly," and distributed to jobs in the Chicago area, according to the article. "Families and friends of the aliens pay about \$1,000 a person to have the aliens brought here [and]...the Joliet distributors receive about \$250 for their work."

This article also described the arrest of a Joliet couple in connection with a smuggling ring which operated between the Arizona-Mexico border and Joliet. The smuggling ring allegedly handled the distribution of illegals to Joliet, including supplying these individuals with the false documents necessary to stay and work in this country.

A general overview of the alien problem in the Chicago region was presented, including a discussion of how difficult it is to catch and deport Mexican illegal aliens who allegedly take jobs away from employable American citizens and legal aliens.

The specific allegations found in this newspaper article are reiterated in Senate Resolution 179 which authorized the Illinois Legislative Investigating Commission to examine this problem and recommend legislative solutions.

Therefore, one of the first tasks of the Commission agents was to verify or refute the information contained in this article. After several interviews with local law enforcement officials and Chicago INS agents, we learned that Joliet is indeed a noteworthy distribution point for illegal aliens, although other cities in the Chicago metropolitan area with light industry jobs available also seem to be popular havens for illegal aliens--Waukegan, Elgin, West Chicago and Aurora. Joliet should be considered "a distribution point of note, not the main distribution point," according to Ted Giorgetti, Assistant District Director of Investigations for the Chicago INS office.

Brian Perriman of the Chicago INS office told us that the ringleader of the smuggling operation described in the newspaper article was in Scottsdale, Arizona, and that the drivers for the operation lived in St. Louis and Joliet. Eliseo and Maria Balcazar of Joliet were arrested on charges of conspiracy to transport illegal aliens from Mexico to Joliet. They were arrested after two undercover Scottsdale narcotics officers drove a truckload of illegal aliens to Joliet. Balcazar and his wife allegedly paid the agents for delivering 19 illegals. The case against the Balcazars was dismissed on a legal technicality and the United States Attorney has appealed the case, Perriman said.

James Lowe, an INS agent in Phoenix, told our investigators that this Joliet operation was a "family smuggling operation which involved relatives in Arizona and Joliet." He corroborated the charge that 20 to 50 aliens were smuggled weekly, on a seasonal basis, through this ring as reported in the Joliet Herald News. However, Lowe said that the price paid to smuggle an alien was more in the range of \$400-\$500, not the \$1,000 quoted in the article.

Lowe said that Joliet was a logical drop-off point for illegal aliens in this particular instance for two reasons: the family connection and the fact that illegals would be safe from INS agents. He stated that because INS is tremendously understaffed, the bulk of its resources and energies are directed to Chicago where the largest concentration of illegal Mexican aliens is found.

Our investigation involved numerous interviews with law enforcement officials, Joliet businesses, Hispanic community leaders, informants and a number of local INS agents. In addition, we drew heavily from our previous experience with the illegal alien problem in the Chicago metropolitan area. In 1971, the Commission issued a report to the General Assembly entitled, The Illegal Mexican Alien Problem. In this report we looked at the social and economic impact of the illegal Mexican alien on the State's economy. (*Highlights of this 1971 report are contained in Chapter 1.*)

As a result of this earlier investigation, our chief recommendation was that the General Assembly pass legislation penalizing employers for hiring illegal aliens. Unfortunately, this legislation did not pass.

Then, in February, 1977, the late Commission Co-Chairman, Representative Joseph G. Sevcik, introduced an amendment to House Bill 230, again designed to prohibit employers from "knowingly hiring" illegal aliens in Illinois. That bill,

prepared by the Commission, passed the House and died in the Senate. Shortly after that bill failed, the Senate passed Resolution 179 on June 24, 1977, which mandated the Commission to investigate the illegal Mexican alien problem in Joliet.

In the following report we examine Joliet as a city with a sizable Mexican population--both legal and illegal. We interviewed businesses in the area in order to get some idea of the problem from their perspective as well as their recommendations on how to deal with it, which are contained in Chapter 3.

We have examined President Carter's recent policy statement and recommendations on illegal Mexican aliens, and we have listened to criticism and support of these proposed measures, which are discussed in Chapter 4.

Finally, we once again considered what, if anything, the State of Illinois can do about this problem--one which involves delicate foreign policy considerations and has both a national and international impact.

We conclude that the problem in Illinois has snowballed since our 1971 report, although the INS budget and manpower has remained about the same. And we conclude that the State of Illinois really has limited capability or authority to deal with this problem because jurisdiction to arrest and deport illegals is vested solely in the INS.

It is clear that Mexicans come to Joliet, Chicago or any other city in the United States for jobs--money, pure and simple. And as long as they can continue to be assured access to jobs, they will continue to come in droves. Therefore, we once again recommend passage of a bill which penalizes employers for "knowingly hiring illegal aliens." A discussion of this proposed bill is contained in Chapter 5 of this report. We realize that this bill is not a panacea and that its only impact will be on the employer who is trying to get away with using cheap labor by blatantly and repeatedly ignoring the law. But we believe this bill could have a deterrent effect, if employers are forced to check more closely to see that they are not hiring illegals.

At least ten other states have similar laws penalizing the employer for knowingly hiring illegal aliens: California; Delaware; Kansas; Maine; Massachusetts; Montana; New Hampshire; Vermont; and Virginia. The Commission surveyed these states to learn if they have enforced this legislation and their responses are included in Chapter 5 of this report.

At the same time, the Commission urges the State to push for federal action on the illegal alien problem and support the move to make it more difficult for illegals to fraudulently reproduce and acquire Social Security cards. The Commission urges businesses to voluntarily discourage illegals from applying for jobs by insisting that employment applications be completed, making it known that INS agents are welcome to inspect the facilities at any time, and verifying proof of residence cards.

Until a national policy is adopted on illegal Mexican aliens, the State of Illinois is virtually handcuffed. The INS office in the Chicago area already has more leads and tips than it can handle, and often, as fast as an alien is deported he returns to this country. The problem is getting worse and the only hope the Commission sees is to take some of the incentive out of coming to the United States by making jobs harder to secure.

Chapter 1

COMMISSION'S 1971 INVESTIGATION OF THE ILLEGAL MEXICAN ALIEN PROBLEM

In response to charges that illegal Mexican aliens were taking jobs away from citizens and legal aliens, the Commission initiated its own investigation of the problem in 1971. Our investigation revealed that Illinois' economy was indeed suffering as a result of the employment of illegal aliens.

If illegal aliens occupied both skilled and unskilled jobs at an average salary of about \$5,000 annually, the Commission estimated that illegal aliens received about \$75 million from the Illinois employment market. We conservatively estimated that over 15,000 jobs went to illegal aliens--jobs which could have been taken by unemployed citizens or legal aliens.

We conducted a random survey of 190 arrested, illegal Mexican aliens and learned that 60 percent of them had not filed state income tax returns--another loss of revenue to the state. And it is common knowledge that many illegal aliens work to send money back to their families in Mexico, further depriving the state of revenue. The Commission also speculated that some illegal aliens take advantage of the State's public welfare system and even apply for unemployment compensation. Under legislation recently passed in Illinois, however, an illegal alien is ineligible for unemployment benefits as of December 31, 1977. But the fact that they are taking jobs away from others, means that those citizens and legal aliens deprived of jobs will require public aid and unemployment compensation.

The issue of employment earnings of illegals comprises one of the most important components of the domestic impact of illegal aliens. However, this large influx of Mexican illegals also generates related problems, for example, the Subcommittee of Population Education (of the Federal Inter-agency Committee on Education), published a report in July, 1976 entitled, "Population Education and the Federal Role," which notes the impact of international migration on United States society.

If both fertility and illegal immigration continue at current levels, all growth in the United States will derive from immigration by the year 2035. Today legal immigrants [about 400,000 a year] account for about 30 percent of the United States population growth and because of the present low fertility in the United States, the relative contributions of immigrants to population growth is increasing yearly.

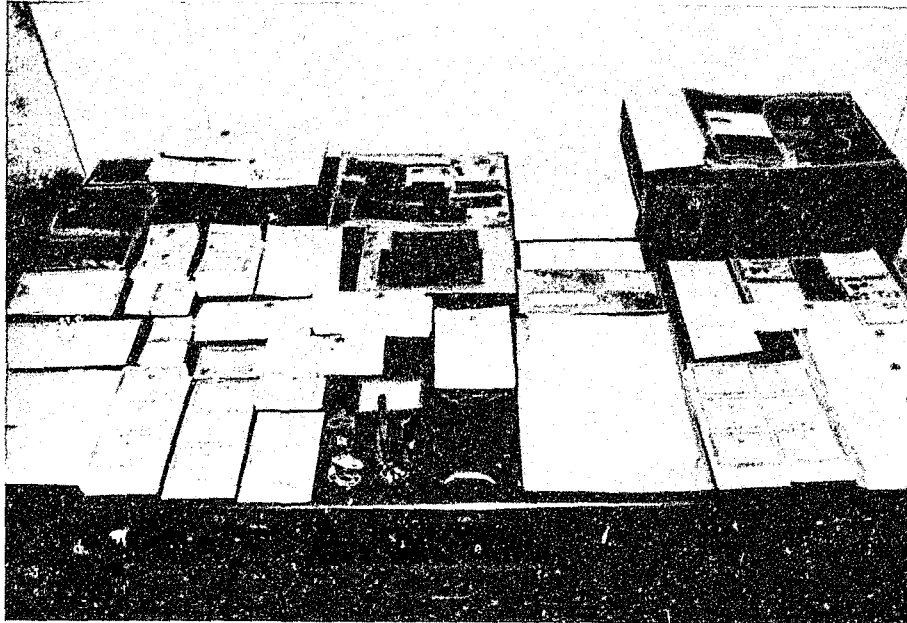
In our 1971 report, we noted that illegal Mexican aliens are generally an industrious group, compelled to work and make money for their families back in Mexico. "They are clannish, rarely produce disturbances, and do not otherwise commit serious criminal offenses. Yet their presence is the genesis of some community evils." Among the evils mentioned were prostitution and drug trafficking. In our 1976 report on Mexican Heroin we discussed the connection between illegal aliens and heroin trafficking:

The extent to which illegal aliens are involved in heroin trafficking is frequently debated. An informant of the Metropolitan Enforcement Group (MEG) told Commission investigators that illegal aliens are often exploited by major heroin dealers. The dealers referred to by the informant explained that they make about two trips to Mexico a year to pick up poor families who, guaranteed safe passage across the border into the United States, agree to smuggle some heroin with them. The informant added that many of the same persons trafficking in heroin are also engaged in the lucrative business of alien trafficking.

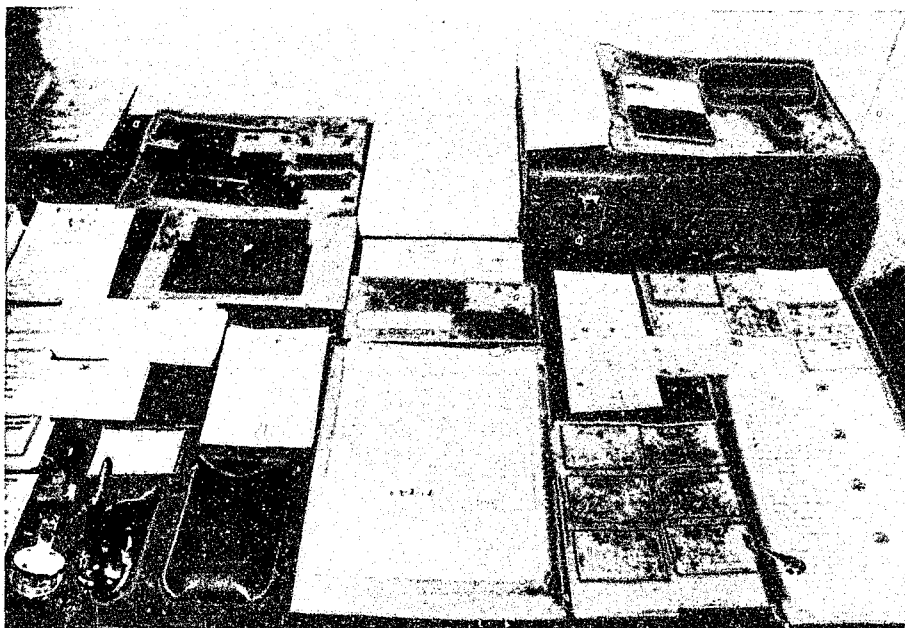
However, several narcotics investigators from the Chicago Police Department's Gang Crimes South Division, rejected this notion. They explained that most illegal aliens are here to work and earn enough money to care for their families and that the last thing they would want to do is get involved in heroin trafficking which is a serious crime. Besides, the heroin trafficking is largely controlled by family members like the Herraras in Chicago, according to the Gang Crimes South investigator. Whether the connection between illegal aliens and heroin trafficking is direct or indirect, this Commission believes that it must be reckoned with in establishing any future immigration policies with Mexico.

In comparing United States Immigration and Naturalization Service (INS) arrest statistics over the years, the Commission learned that the rate of arrests has remained fairly constant since our 1971 investigation. In 1971, 8,728 illegal aliens were arrested (85 percent were of Mexican origin). Between October, 1976 and October, 1977, the Chicago INS office arrested 8,842 illegals and from October, 1977 to March, 1978, they arrested 5,580--the majority of which are Mexican.

Ted Giorgetti, Assistant District Director of Investigations for the Chicago INS office, explained that the number of persons arrested has remained at this level because of budget and manpower constraints. Paperwork and the cost and logistics of detaining and deporting people have also kept the arrest statistics down, he said. "We can't apprehend more than we can afford to deport," he added.



These pictures show the range of counterfeit documents that Newton Peter Van Drunen mass produced for the use of illegal aliens. They include phoney social security cards, alien registration cards, and driver's licenses. These items were found in Van Drunen's vehicle when he was arrested on February 28, 1977. He is currently a fugitive. *(Pictures courtesy of the Immigration and Naturalization Service in Chicago.)*



Many INS agents agree that those arrested reflect only the tip of the iceberg. For every illegal Mexican alien returned to Mexico, several others cross the border undetected. It is estimated by INS officials that for every illegal alien arrested nationally, two or three go undetected.

During the 1971 investigation, the Commission gathered valuable evidence which led to the arrest and ultimate conviction of Newton Peter Van Drunen, a professional smuggler of illegal aliens as well as a supplier of fraudulent documents. Van Drunen bragged to Commission agents that between 1954 and 1971 he helped secure employment for about 15,000 illegal aliens. Many of them were placed as farm laborers, although about 2,000 were placed in factories.

He was arrested for smuggling illegals on February 15, 1972 and convicted in October, 1973, in part because of testimony supplied by the Commission. He was sentenced to three years in prison plus a \$4,000 fine. His sentence was appealed and ultimately he was re-sentenced in May, 1975, to two years in prison. He was paroled from the Federal Correctional Center in Sandstone, Minnesota in May, 1976.

However, on February 28, 1977, he was again arrested by Immigration agents for providing counterfeit documents to illegal aliens. At the time of his arrest, his vehicle contained printing presses and photocopy machines. He had also developed numerous counterfeit seals for the Department of Health, Education and Welfare, the Social Security Administration and the Selective Service. Immigration officials revealed that Van Drunen had 43 runners distributing these false documents and that his operation was quite sophisticated. He was arrested after an undercover investigator purchased eight sets of documents for \$590. (Copies of these counterfeit documents are pictured on page 7.)

After his arrest, he was held in custody by the United States Marshal and bond was set at \$15,000. On March 8, 1977, Van Drunen's bond was reduced and he was released. The United States Attorney asked that the bond be raised in light of his past conviction, but Van Drunen failed to appear at two bond hearings. He is currently a fugitive and a warrant for his arrest has been issued. Immigration officials have received reports that Van Drunen is in Mexico selling forged alien registration cards ("green cards").

Chapter 2

ILLEGAL MEXICAN ALIENS--A NATIONAL PERSPECTIVE

The problem of illegal Mexican aliens in Joliet and elsewhere in the Chicago metropolitan area, must be understood in the context of the national illegal alien problem. In 1976, the INS arrested 875,915 illegal aliens nationally, and in 1977, over one million were arrested--about 88 percent of whom were of Mexican origin. And INS officials state that for every legal alien admitted to this country, at least two illegal aliens are caught, and countless other illegals go undetected.

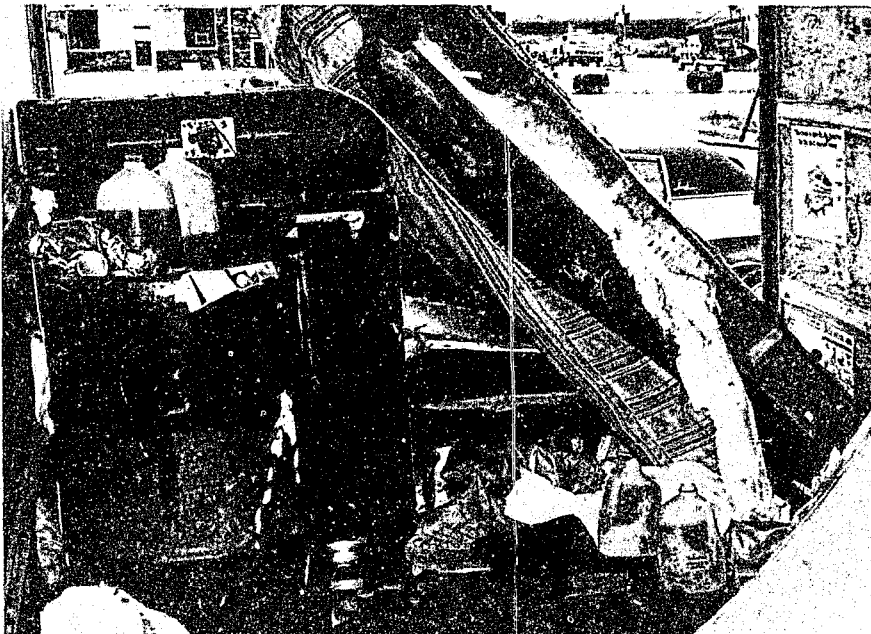
Throughout this country's 200 year history, it has continued to develop and modify its immigration policies in response to changing economic, political and social conditions. Unfortunately, there has not been a major reform in the United States immigration policy since 1965, when Congress repealed the national origin quota system and substituted family relationship, desirable labor skills, or refugee status as the prerequisites for immigration. In the meantime, the United States unemployment rate has climbed along with inflation, dampening the United States economy. The United States immigration policies are in urgent need of review in light of the droves of illegal aliens coming into this country.

The reason Mexicans flee to the United States is simple--jobs. The economic disparity between Mexico--where unemployment runs higher than 50 percent in some areas--and the United States is dramatic. "Over the border" represents the land of opportunity for the impoverished Mexican worker who must support himself and his family.

The arbitrary division between Mexico and the United States is a 2,000 mile geographic border which is patrolled by less than 300 INS agents per 8-hour shift. It is physically impossible to guard this entire border at any one time, and as a result, it is not very difficult for an illegal alien to sneak by undetected. Others are smuggled across the border in trucks, cars and a variety of trick compartments--the schemes are many and ingenious. (*See pictures of vehicles used in smuggling on page 10.*) Some utilize counterfeit or fraudulent documents to gain entry and other aliens enter into sham marriages to obtain permanent residence status as the spouse of an American citizen. Thousands obtain legal visas and enter the country temporarily as students or visitors, and never return to Mexico.



This U-Haul van was used to smuggle 28 "undocumented aliens" into the United States from Mexico. This vehicle was apprehended along Interstate 80, near Princeton, Illinois. Furniture and mattresses were stuffed at the back of the U-Haul to mislead anyone who might check the contents. (Pictures courtesy of the Immigration and Naturalization Service in Chicago.)



The full dimension of the illegal alien problem can only be estimated. Leonel J. Castillo, Commissioner of INS, said that some experts contend that there are between three and five million illegal aliens in the United States--but these are nothing more than "guesstimates," he explains. Whatever the number, he insists that illegal Mexican aliens will continue to flee to the United States as long as the economic disparity exists between the two countries and jobs are available.

The INS has a total strength of 9,600 employees and a \$250 million budget. Castillo's plan is to increase the manpower to 11,000 with a budget of about \$300 million in fiscal 1979. In the meantime, Castillo has directed the agency's efforts at uncovering and prosecuting smuggling rings, an organized network which he feels may be transporting as many as one fourth of all Mexicans coming across the border. He has also asked his agents to concentrate their enforcement efforts on those illegal Mexican aliens who are holding better paying jobs--industrial and manufacturing type work, under the assumption that this is where United States citizens are hurt the most.

One goal of the current immigration law is to allow certain categories of needed workers into the country. Some aliens are allowed to enter the United States as workers when the Secretary of Labor certifies that 1) there are not sufficient workers in the United States at the alien's destination who are able, willing and qualified to perform the job, and 2) employment of the alien will not adversely affect wages and working conditions of similarly employed United States workers. (Certain aliens may receive labor certification without a job offer if they are members of much-needed professions, or of exceptional ability in the arts and sciences. All other aliens applying for this category must have a specific job offer before being granted certification.) About 400,000 individuals enter as legal aliens annually. The Immigration Act places a ceiling of 170,000 immigrants from the Eastern Hemisphere and 120,000 from the Western Hemisphere, plus relatives of United States citizens and permanent resident aliens who enter outside of numerical quotas.

Much of the concern about illegal Mexican aliens focuses on their impact on the United States labor market and the resulting impact on our economy. According to Castillo, the research and evidence on this topic is sketchy, but he stated that "it does appear that some United States citizens, primarily in the industrial areas, clearly are displaced by persons who are coming from other countries and taking their jobs."

A report issued by President Ford's "Domestic Council Committee on Illegal Aliens," in December, 1976, discusses the impact of illegal aliens on available jobs and refers to related negative impacts:

There is substantial concern that illegal aliens reduce the number of jobs available for legal workers, and thereby create unemployment for legal workers. Some even imply that this occurs on a one-for-one basis. This view, however, is based on the assumption that there are a fixed number of jobs in the economy, and giving one person a job implies denying it to another. As long as relative wages can respond to changing relative supplies of different types of labor, an increase in the size of the illegal alien population per se will not increase unemployment in the long run. There may, however, be some short-run impact as legal residents may have to engage in somewhat longer job search process until they adjust to the new situation.

The unemployment impact is heightened when there is a floor under wages and working conditions. If illegals work at levels that just meet or violate Fair Labor Standards Act or Occupational Safety and Health Act provisions, but natives will not, employers would hire at least some illegals at legal residents' expense. Furthermore, the violation of such standards undermines the effectiveness of those protections for native workers. ... This adverse employment effect is likely to be most severe for legal residents who are teenagers, disabled or clearly unskilled.... (page 159.)

Ted Giorgetti, Assistant District Director of Investigations for the Chicago INS office says that illegal Mexican aliens have a particularly damaging impact on urban areas like Chicago, since they take jobs away from minorities, who suffer the highest unemployment rate. He cited the example that after a large INS raid on a manufacturing plant in Chicago was publicized, hundreds of people lined up for the jobs suddenly made available. He said that most of those arrested by INS are earning between \$2.50 and \$4.50 an hour.

In one sense, illegal aliens who are working make a positive contribution to the American economy in their production of goods or services. This is particularly true in the case of agricultural jobs--which are often "stoop labor," and unattractive to an American worker. However, the value of their contribution is often offset by the fact that they are, in fact, taking jobs away from employable, legal residents--thereby increasing the costs of unemployment compensation and the related welfare programs. Furthermore, quite a few illegal aliens send money that they earn back to relatives in

Mexico--which worsens the United States balance of payments deficit.

The overwhelming task of preventing the illegal migration of aliens into this country falls primarily on the INS. This federal agency is aided in its prevention efforts by the State Department, which is responsible for the issuance of visas overseas. Once the illegal alien has reached this country, several agencies become involved: the Wage and Hour Enforcement Division of the Department of Labor, the United States Customs Service, the Internal Revenue Service, and the Social Security Administration.

Border patrol officers are responsible for detecting illegal entry and alien smuggling at the borders. To date, the border patrol has been the most productive and efficient means of stopping illegal entry. Once an illegal entrant has gained access to the "interior" of the United States, the job of detecting him falls on the investigative arm of INS. Over half of the investigators are located in Chicago, New York City and Los Angeles. The Chicago office has approximately 100 agents to cover Illinois, Wisconsin and Indiana. These investigators follow leads and concentrate their efforts on breaking up smuggling rings and finding those aliens with the higher-paying jobs.

However, the massive number of illegals apprehended by the INS makes it impossible to fully prosecute these individuals through the court system and formally deport them. For this reason, a less complicated repatriation procedure is used. Illegal Mexican aliens are given an opportunity to "voluntarily depart" for their country under certain circumstances. This expedites the process and saves the United States money since the alien pays his own way back in return for having his record cleared. Repeat or aggravated offenders and criminal violators are held for prosecution and are not given the "voluntary deportation" option.

All tactics used to ferret out and apprehend illegal aliens must be weighed in light of their impact upon the individual liberties of those persons detained as well as the disruptive consequences they may have on the communities involved. Several recent Supreme Court cases have severely handicapped INS agents in their search for illegals. In Almeida-Sanchez v. United States, 413 US 266 (1973), the Supreme Court held that the warrantless search of an automobile at a location other than the border, made without probable cause or consent following a roving patrol stop, violated the Fourth Amendment. In the United States v. Brignoni-Ponce, 422 US 873 (1975), the Supreme Court held that a roving patrol

stop of a vehicle away from the immediate border area, and the questioning of its occupants merely because they appear to be of Mexican descent, also violates Fourth Amendment guarantees.

In United States v. Ortiz, 422 US 891 (1975), the Supreme Court ruled that a checkpoint search of a vehicle trunk, away from the border, without a probable cause or consent, violated the Fourth Amendment. Whenever a vehicle is searched away from the border, the officer must be prepared to articulate a clear determination of probable cause, or the consent of the driver.

This principle of articulating reasonable suspicion has been extended to pedestrian situations in the case of the INS stopping and questioning possible illegal aliens on the street or any other public place. On July 29, 1975, a preliminary injunction was issued against the INS in the case of Illinois Migration Council v. Pilliod, 398 F.Supp 822 (1975). As a result, the court for the Northern District of Illinois barred the INS from stopping, detaining, arresting or interrogating persons of Mexican ancestry or Spanish surname in the absence of either a warrant, or reasonable suspicion based on specific articulated facts that the person is an alien illegally in the United States. Giorgetti did not feel that this court injunction had hampered his unit's investigations, instead the national priorities have changed and the INS is now more interested in breaking up smuggling rings and locating higher-paid illegals. The cumulative effect of all these decisions has been to place a greater emphasis on preventing illegal entry at the first line--the border.

Chapter 3

THE ILLEGAL MEXICAN ALIEN SITUATION IN JOLIET

The number of illegal Mexican aliens in Joliet is simply a guess, since they try to remain invisible. Emilio Mora, Director of the Spanish Center in Joliet, came up with an estimate of 700 which he derived by computing from the total number of Hispanic visitors to his office the proportion of visitors who are illegal aliens. Then he multiplied that percentage by the number of persons of Hispanic origin thought to live in the Joliet area.

At the other extreme, an illegal alien told the Joliet Herald News that there were about 5,000 others like himself in Joliet. And Reverend Victor Lopez, a local Hispanic leader, estimated that about one-third of Joliet's Hispanic community might be illegal aliens or about 2,000 to 3,000 individuals.

To learn why illegal Mexican aliens come to Joliet, our Commission investigators interviewed several persons arrested by INS agents at the P.J. Gould Company in Rockdale, Illinois (near Joliet) on March 8, 1978. With the cooperation of the plant manager in this upholstery company, 18 aliens--15 women and three men--were arrested.

Of those interviewed, several had friends or relatives living in the Joliet area who told them about available jobs. Others had heard that Joliet was "safe" because of less heat from the INS. Here are their stories of how they crossed the border and ended up in Joliet.

A. Celina Arias de Olmedo

Celina Arias de Olmedo, 30, came to Joliet from Coto, Mexico. She entered the United States through Laredo, Texas, illegally and claimed that she was driven to Joliet by a United States citizen whom she did not know. INS investigators told the Commission that typically women are smuggled into the United States and that very few make a journey to Chicago or any other northern city on their own. Many have received financial assistance from their husbands who are already working illegally in the United States.

This woman is married to a man whom INS agents have identified as a possible alien smuggler in Joliet. He came to the United States in 1970 and married a United States citizen so that he could stay in the country. Shortly after he

obtained his "green card" he divorced his American wife. Celina came to the United States for the first time in 1974 and married this man in November of the same year. INS agents speculate that her husband smuggled her into the country. He is thought to be working for a company in Joliet, and INS agents are looking for him for violation of immigration laws.

B. Clemente Ramirez Gutierrez

Clemente Ramirez Gutierrez, 19, came to Chicago in 1976 on his own after entering the United States through El Paso. He is originally from Guanajuato, Mexico, and came to the United States in search of a job. He has legal relatives living in the Joliet area, and when he first arrived he lived in Blue Island. His uncle, a legal alien, also works at P.J. Gould and got him a job last October. He was earning about \$3.50 an hour. When he applied for the job, a friend accompanied him and translated. He was only asked to show his social security card, which he applied for and received with no questions asked.

C. Enriqueta Manzo de Contreras

Enriqueta Manzo de Contreras, 29, came to Joliet from Jalisco, Mexico. She admitted she was smuggled to Joliet, along with her three children, to join her husband in September, 1977. Her husband has since died.

She learned of jobs at Gould last October and applied. She had heard from her husband and friends that Joliet was "safe" for illegals since the INS never came down from Chicago. She had no trouble getting a job after showing her Social Security card, which she had previously applied for and received with no questions asked.

All three of these persons have the choice of returning to Mexico at either their own or the United States government's expense. In the case of a voluntary deportation, the individual is not formally charged and does not have a record. In those cases where the government deports them, they will have a record and if caught again stand the chance of being fined or imprisoned.

It is true that INS agents do not get to Joliet very often primarily because of nationally determined priorities and limited manpower. Leonel J. Castillo, Commissioner of INS, has two primary goals: to reduce the number of smuggling operations, and to go after the illegal aliens that are taking high-paying jobs away from Americans. Accordingly, the INS Chicago office has more work than it can handle just trying

to keep up with the situation in Chicago. INS agents complain that they have more leads to follow through on than they have time, manpower or room to detain those arrested. Chicago is the second most popular destination of aliens in the country after Los Angeles. And the problem is growing as fast as illegals are arrested and deported.

"On the average, we only get down to Joliet about once every two months," David Vandersall, District Director of the INS said. (Recently, it has been more often as a result of the Commission's investigation. So indirectly, the Commission investigation for the time being has made things a little less "safe" in Joliet for the illegal alien.)

According to employers and INS agents, many of the employers of illegal aliens are small, light industrial plants, operated by the owner. Unions rarely exist and wages are seldom higher than \$3 to \$3.50 an hour. However, a number of the illegal aliens work long hours and overtime to increase their weekly earnings. There are, of course, exceptions--some more skilled jobs pay over \$6 an hour and there have been reports of illegal aliens taking home several hundred dollars a week, but the norm seems to be the light manufacturing jobs, work in restaurants as dishwashers and janitors, and agricultural work.

D. Employer's Viewpoint

Commission agents selected several Joliet businesses to interview. In several cases, illegal aliens had previously been arrested at the company interviewed. As part of our interview, we reviewed personnel procedures, examined employee applications and payroll records. In general, we learned that many of these employers were very lax in determining the citizenship of individuals applying for jobs. And in those cases where the individual said that he was not a United States citizen, little effort was made to verify the applicant's eligibility for employment. In several cases, we noticed that employment applications had been selectively or incorrectly filled out.

Several employers complained that they did not want to be placed in a position of being policemen or taking on the INS' job. Others feared discrimination suits if they asked too many questions. In several cases, the employer did not have a clear understanding of what verification he could ask for or what questions he could ask an applicant without being discriminatory.

1. Corsetti Welding, Inc., 916 Collins Street, Joliet

Carmen Corsetti, Secretary-Treasurer of Corsetti Welding Company, said that their staff consists of 20, most of whom have been with the company four or five years. If a Mexican applies for a job, Corsetti said that he asks the alien if he is here legally and requires him to show a Social Security card, no other type of documentation is required.

Corsetti said that half of their work force is Mexican and that the lowest salary is \$4.50 an hour for a general hand, up to \$7.25 for a foreman. Since the jobs pay well, there is little turnover.

Corsetti mentioned that he would have a tough time distinguishing between a genuine Social Security card and a fake. Each applicant is required to fill out an application form. An ability to speak English is not a requirement since he and members of his family are bilingual. The Internal Revenue Service has audited the company's books for the past two years but they have had no complaints. He has not had contact with anyone from the INS and illegal aliens have never been arrested at his company.

2. Greif Brothers Cooperage Company, 405 Ward, Joliet

Joseph Marino, the foreman for Greif Brothers Cooperage Company in Joliet, said that when the company is operating at full strength they have about 18 employees, primarily Mexican. Marino explained that each employee is asked if he is a citizen and is asked to show his "green card" if he is not and a Social Security card. Marino admitted that employees do not even fill out employment applications. Whenever the company needs an employee, Marino calls SER-Jobs For Progress in Joliet, a job referral organization funded by the United States Labor Department to help improve the socio-economic status of Spanish speaking legal aliens.

Starting wages are \$4.15 an hour plus incentives, Marino said. Greif Brothers manufactures large metal drums and the main office is located in Chicago.

3. Lubick Welding & Fabricating Service, Lockport and Fairmont Avenue, Joliet

Ronald S. Lubick, President of Lubick Welding and Fabricating Service, said that ten years ago his policy for checking illegal aliens was to ask for any kind of identification --a driver's license or whatever. If an applicant could produce something, he was hired--no further questions asked.

However, after the INS arrested illegals at his company, he decided to become more careful and ask for additional documentation.

Unfortunately, one applicant applied for a job who could barely speak English. When Lubick asked for his "green card," the man claimed that he was an American citizen. Lubick tried to get him to produce further identification and when the man refused, he decided not to hire him. Several days later, an employment bureau in Joliet called Lubick and told him he was discriminating against this American citizen. It seems the man was born in Texas along the border and never mastered English. The only way Lubick avoided a lawsuit was by showing that his work force was already 30 to 40 percent Mexican.

Lubick has since made it his policy not to hire applicants who walk in off the street. When vacancies occur, he passes the word on to his employees who refer plenty of applicants to him. He requires only a social security card as identification, since he reasons the individual has to provide a birth certificate to secure the card. Lubick argues that there is no type of document or identification card that cannot be forged and he certainly doesn't want to assume the role of an INS agent and verify every document shown. (After reviewing the employee applications, we noticed that few applicants filled out the section relating to past work experience and education.)

Lubick said that 90 percent of his employees are skilled workers--welders, machinists, etc. His unskilled workers start at about \$3 an hour and skilled workers at about \$4.25 an hour. They are not unionized and work a 30-day probation period with a raise after the first 30 days. He classified his Mexican employees as hard working and responsible.

On a subsequent visit with Lubick, our Commission agent and two INS investigators explained INS' "Operation: Cooperation." This is a program in which an employer can check on the status of an alien's registration card--"green card"--with INS officials, in those instances where an employer is suspicious of hiring an illegal alien. INS encourages business to double check suspicious applicants to make certain he or she is a legal alien.

Following this meeting, Lubick checked on several of his employees and learned that three of them were illegal aliens. With Lubick's cooperation the three were arrested and transported to Chicago for deportation.

4. Material Service Corporation, Headquartered at
300 W. Washington, Chicago

Over ten years ago INS agents found several illegal aliens employed at Material Service Corporation's Lockport plant near Joliet. The hiring policy has changed and personnel officers check applicants more closely these days.

The company employs about 500 unskilled workers in Lockport, about 100 of whom are of Mexican descent. The lowest wage is \$6 an hour and all laborers are required to join the union.

When jobs open, current employees spread the word and send in friends. Material Service will hire immigrants but they try very hard not to hire illegal aliens, according to Walter W. Winfield, Director of Salaried Personnel. All job openings must be reported to the State Employment Service in Joliet per federal regulations which insure equal employment opportunity.

Applicants are asked to show their "green cards" if they state that they were not born in the United States. In addition, each applicant is checked for a valid driver's license, since Social Security cards are easy to acquire. Employment applications must be completely filled out including where the applicant went to school, previous jobs, etc. Even taking all these precautions, Winfield admits that it is quite possible that fraudulent documents are being shown and that the company has hired illegals. It is difficult for the employer to press the issue, he said, because of threats of discrimination suits.

5. Prairie State Paper Mills, Inc., 292 Logan, Joliet

Prairie State Paper Mills employs some 200 people, about 20 percent are Mexican-Americans. Richard LeGrand, Plant Manager, said that Mexican applicants are asked to produce a "green card" or evidence that they are United States citizens in addition to a Social Security card, which everyone must produce.

About five or six years ago, LeGrand said that the Department of Labor checked records because of illegals being employed there. They have not been back in the last three years, he said. Starting salary is \$5.79 an hour, and all employees are unionized. LeGrand was interested in "Operation: Cooperation" and offered to work closely with the INS in suspicious cases.

6. Zartic Frozen Meats, Inc., 602 Des Plaines,
Plainfield

Zartic Frozen Meats, Inc. hires about 45 employees, 15 of whom are Mexican. The company suffered large cutbacks in July, 1977, when much of the production switched to Atlanta, Georgia.

In 1976, ten illegals were arrested at Zartic and before that INS agents had arrested several illegals at the plant.

Mrs. Irene Gamauf, Office Manager, explained the current hiring policy as dictated by Plant Manager Jack Lupton. All applicants of Mexican descent must produce at least two legal documents proving their residency status--typically a Social Security card and "green card" or visa. Lupton has specified if they have these two that is enough. Applications must be filled out and a photocopy of the documentation provided is included in the file. Lupton makes the decision on who gets hired. However, few vacancies have come up in the last nine months. The basic salaries at Zartic are \$2.80 an hour for women on the line, and \$3.60 an hour for men who work the machines.

E. Arrest Figures for Joliet Over the Past Few Years

United States' Immigration files on arrest data for the Joliet area over the past few years are sketchy at best. Arrests are indexed on large file cards which show the name and address of the employer or company where the arrest took place, date of the arrest, number of illegals arrested, and whether the employer was cooperative. Those records are shown below.

This list also includes arrests made in Aurora, Illinois for purposes of comparison, since many INS investigators felt Aurora had a greater illegal alien problem than Joliet. However, they concede that they have devoted more manpower and time to Aurora than Joliet in the past.

The following are the arrest figures for Joliet, Illinois:

<u>COMPANY</u>	<u>DATE</u>	<u>NO. ARRESTED</u>
Lewis University Lockport	7/04/77	1
Lubick Welding & Fabricating Service Lockport Road & Fairmont Avenue	3/01/78	3

<u>COMPANY</u>	<u>DATE</u>	<u>NO. ARRESTED</u>
Material Service Corp. Lockport	1962-69	13
Prairie State Paper Mill, 292 Logan Joliet	3/23/67	4
Santa Fe Railroad 67 E. Cass Joliet	9/14/70	5
Seven-Up Bottling 777 Joyce Road Joliet	11/17/77	1
Southern Door Plainfield (no current listing)	9/02/70	9
Zartic Frozen Meats, Inc. 602 Des Plaines Plainfield	11/18/76	<u>10</u>
	TOTAL ARRESTED:	46

The following is a list of arrests made in Aurora, Illinois:

Aurora Paperboard Co. 705 N. Farnsworth Aurora	1967-75	69
Ballco Mfg. Co. Liberty Road Aurora	4/28/76 7/21/76	10 5
Burlington Northern Railroad 175 S. Broadway Aurora	12/04/72 5/07/73	2 6
Forty-Eight Insulations, Inc., E. River Road North Aurora	1967-75	41
Harris Pine Aurora	1/10/77	1

<u>COMPANY</u>	<u>DATE</u>	<u>NO. ARRESTED</u>
Plastic-Blow Molding N. Aurora	12/06/72	5
Rochester Germicide Co. 2200 Rochester Montgomery	3/05/76	<u>8</u>
	TOTAL ARRESTED:	147

F. Law Enforcement Views of the Illegal Alien
Situation in Joliet

The resolution authorizing the Commission's investigation alleges that a "formal organization in Joliet handles the distribution, supply of (fraudulent) documents needed and locates jobs for aliens transported here, which results in a multimillion dollar smuggling business."

At the outset of our investigation, Eliseo and Maria Balcazar of Joliet were arrested on charges of conspiracy to transport illegal aliens from Mexico to Joliet. They were arrested after two undercover Scottsdale narcotics officers drove a truckload of illegal aliens to Joliet. Balcazar and his wife allegedly paid the agents for delivering the 19 illegals. However, charges against the Balcazars were dismissed and the United States Attorney has appealed the case.

This Joliet smuggling operation was described as a family operation involving relatives in Arizona and Joliet, and an INS agent in Phoenix said that as many as 20 to 50 illegal aliens were smuggled into the Joliet area weekly.

Smuggling is a very lucrative business and to date the INS has had a difficult time catching smugglers, much less making the charges stick.

Chicago INS agents and Joliet police suspect that other smuggling operations exist, but to date they have not gathered enough evidence for an arrest. Lt. Howard E. Martinson of the Joliet Police Department explained that the department gets involved with illegal aliens only if another crime is committed. If they do discover an illegal alien, they cannot detain or arrest him, but they will hold him until INS can pick him up.

Lt. Martinson speculates that a Mexican who lives in Joliet and operates a tavern is a major smuggler, but he has not been able to prove it. This individual owns a number of

houses near his tavern and may be providing housing for illegal aliens as well. Martinson also suspects that drugs such as marijuana and cocaine are being sold out of this tavern. This bar has been the site of many disturbances over the past few years and the Mexican has had his liquor license suspended several times. Chicago INS agents have kept this individual under surveillance, although to date no arrest has been made.

We interviewed the Joliet office of the Illinois Department of Law Enforcement and the Joliet office of the State Police. Neither had any information on illegals living in the area, and rarely are they involved in illegal alien incidents.

David V. Vandersall, District Director of the United States Immigration and Naturalization Service in the Chicago area (which includes Wisconsin and Indiana) estimates that there are about 450,000 illegal aliens in this district. However, most of them are in the five county area surrounding Chicago. The cities of Aurora, Bensenville, Elgin, Joliet, Waukegan, and West Chicago are suspected of having substantial illegal alien populations. Gary Renick, who is in charge of the anti-smuggling squad of the Chicago INS, speculated that the Joliet area has several specialists in collateral services for the illegal alien--supplying false documents, arranging for bogus marriages and securing jobs. In contrast, he believes that in Aurora certain individuals specialize in securing jobs for illegal aliens.

Ted Giorgetti, Assistant District Director of Investigations for the INS in Chicago, examined the resolution authorizing the Commission investigation and questioned several of the specific allegations. Giorgetti stated that Joliet is not the main distribution point of illegal aliens coming into the Chicago area from Mexico, but that Chicago is. He prefers to describe Joliet as a "distribution point of note," which implies that there is indeed a problem, although in numbers it is not as bad as Chicago, primarily because of the disparity in size between the two cities. Giorgetti disagreed with the statement that illegals come from Guanajuato, Mexico. He believes that they come from many areas where the unemployment is high and people are living in poverty, including Durango, Jalisco, and Guanajuato.

Giorgetti said that in the last fiscal year--October, 1976, to September, 1977--32 smugglers of illegal aliens have been prosecuted in Chicago. (The Balcazars are included in this statistic.) His intelligence reports suggest that there are now about eight to ten people active in smuggling aliens into Joliet.

G. Hispanic Organizations View the Illegal Alien Problem in Joliet

1. SER-Jobs For Progress, Inc., 155 E. Jefferson, Joliet

The purpose of SER-Jobs for Progress is to improve the socio-economic status of the Spanish-speaking. The program provides employment and training assistance, economic development programs and supportive services. SER means "to be" in Spanish, and the initials also represent the goals of the organization, "Service, Employment, and Redevelopment." SER is a nationwide organization funded jointly by the Department of Labor and the Office of Economic Opportunity.

The Joliet SER office has been in existence four years and its funding passes through the Will-Grundy County Consortium. Besides helping place people in jobs, SER offers English classes and GED classes to help applicants obtain a high school diploma. Individuals who come to SER for assistance must show their "green cards" if they are not United States citizens or legal aliens. SER is able to locate primarily unskilled jobs for those persons seeking work. Stephen Sanders, the office manager, explained that a number of Joliet employers are receptive to hiring Mexicans because they are good workers and that several companies are under federal pressure to hire minorities. SER's placement is primarily in Will and Grundy counties, he said.

SER asks each person who comes in seeking employment of other services to fill out a detailed application including economic status and work history. The applicant must provide the appropriate identification to affirm his citizenship status. The application contains the warning that any misinformation or misrepresentation of the facts will be grounds for termination from the Comprehensive Employment and Training Act (CETA), which is a federally subsidized employment program for the disadvantaged and unemployed.

2. Father Victor Lopez--Hispanic Community Leader in Joliet

Father Victor Lopez, a Hispanic community leader in Joliet, gets involved in providing a variety of services to Mexican aliens. He counsels families, provides job referrals, assists in reuniting families, and performs religious services.

From his perspective, Joliet has a significant Mexican population since it is the "crossroads of Mid-America" with Interstates 80 and 55 intersecting on the edge of the city.

He said that it would be presumptuous to assume that Joliet is an organized distribution center as compared to Aurora, as Aurora has a larger Latino population and more illegal alien activity.

Lopez said that he has not heard complaints from employers or citizens about illegal aliens taking valuable jobs away from legal aliens or United States citizens. In fact, he has heard many employers praise the work of Mexicans because of their higher productivity, willingness to work long hours, and their lower accident rate on the job.

Lopez described the average illegal alien as an exceptional person, aggressive, hard-working, and self-reliant. "They call coming here an adventure. They're willing to accept whatever they find. And they do the heavy, dirty work that no one else wants to do," he said. Lopez says that the illegal alien is likely to shy away from government agencies and the police since he is trying to be an "invisible man, while still being a human being." Many of them live in constant fear that someone will turn them in to the INS. Others accept that possibility and reason that they will just return again, he said.

Chapter 4

FEDERAL PROPOSALS ON ILLEGAL ALIENS

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tossed, to me:
I lift my lamp beside the golden door.

This poem by Emma Lazarus, etched on the base of the Statue of Liberty reminds us that throughout the history of the United States, it has been a land of immigrants, welcoming the poor, homeless and downtrodden. But in the last ten years the United States has been faced with a problem--it cannot socially or economically accommodate all the immigrants that would like to come to this country. And as the disparity between rich and poor nations increases, more and more illegal aliens try to enter the United States.

President Gerald Ford created the Domestic Council Committee on Illegal Aliens in 1975 to study this issue and consider the impact of illegal aliens--predominantly Mexican--on the economy. The Council's final report was released just two weeks before President Ford left office and is more a narrative discussion of the problem than a recommendation for action.

Illegal immigration was among the topics discussed by Ford's successor, President Carter, at his first two cabinet meetings in early 1977. Later, President Carter met with Mexican President Jose Lopez Portillo and discussed his concern about the heavy traffic of illegal aliens crossing the Mexican border into the United States. Shortly thereafter, Carter asked four members of his cabinet: Attorney General Griffin Bell; Secretary of Labor Ray Marshal; Secretary of Health, Education and Welfare Joseph Califano; and Secretary of State Cyrus Vance to formulate policy proposals for curbing illegal immigration.

A. Highlights of Carter's Policy on Illegal Immigration

On August 4, 1977, President Carter announced his recommendations for legislation to "markedly reduce" the flow of undocumented aliens into this country, and to regulate the presence of those already here illegally. Although no draft legislation has been submitted to Congress, the following specific recommendations for legislation were made.

1. Undocumented aliens in this country would be allowed to adjust their status in one of two ways. First, undocumented aliens who have resided in this country continuously since before January 1, 1970, would be given one year to apply to the Immigration and Naturalization Service (INS) for "permanent resident alien" status. Normal documentation--rent receipts, cancelled checks, employment papers--would be required to prove residency. Under existing immigration law, these persons could apply for United States citizenship five years after becoming permanent resident aliens.

2. A new immigration category, "temporary resident alien," would be available to those undocumented aliens who have resided in this country continuously since before January 1, 1977 but after January 1, 1970. There would be one year to apply for this new status, and this status would last for only five years. (No determination has been made on what change of status would occur after five years.) Temporary resident aliens would be allowed to seek employment and leave and reenter the country, but would not be able to vote, hold public office, serve on juries, receive federal/social service benefits, or bring members of their family to this country. Excluded from this status would be students and visitors with expired visas.

3. All undocumented aliens who arrived after January 1, 1977 would be subject to normal deportation upon apprehension.

4. Border enforcement resources would be increased by at least 2,000, and INS enforcement personnel would concentrate on border areas in apprehending illegals.

5. An anti-smuggling task force would be established to combat smuggling rings dealing in forged documents and transportation of undocumented aliens entering the United States. Personnel in the State Department's visa issuance division would be increased to help regulate and monitor legal entries.

6. Sanctions would be imposed on any employer who engaged in a "pattern or practice" of hiring undocumented aliens. Civil fines of \$1,000 per undocumented alien hired would be assessed through the United States District Courts and injunctions obtained against continuation of the practice. A criminal contempt charge would follow the violation of the injunction. An employer's defense would be proof that, prior to the hiring, he viewed documentation proving the legal residence of the alien.

7. In order to secure a Social Security card a personal interview could be required and the card itself would be re-designed to make it more difficult to reproduce fraudulently.

8. Criminal sanctions would be imposed on persons who knowingly assist an undocumented alien to retain or obtain employment or who knowingly contract with persons for the employment of undocumented aliens.

9. The Fair Labor Standards Act concerning minimum wages and other employee protections would be more strictly enforced and existing penalties would be sought more frequently.

10. The Administration pledges that great care would be taken to ensure that individual civil rights are protected and that due process is afforded.

11. Better conditions in source countries like Mexico would be encouraged through financial, economic, technical, and educational assistance from the United States.

B. Reaction to Carter's Proposals

1. The Mexican American Legal Defense Educational Fund

The Mexican American Legal Defense Educational Fund (MALDEF) was "greatly disappointed by the legislative package," and found it unacceptable in a number of areas. MALDEF feels that the need for the proposed legislation was not well considered and that no reliable data is available which describes the precise number of illegal aliens in the United States and "whether their presence imposes a net burden upon our society, or provides a net benefit. The Administration's proposal is the product of a perceived need that has no factual basis." For this reason MALDEF considers the proposal to be premature and urges that no legislative action be taken until the question is more thoroughly researched.

In addition, MALDEF has serious policy and constitutional objections to the elements of the Carter proposal. It opposes the employer sanction element of the Administration's proposal because "we feel that its implementation will inevitably lead to employment discrimination against Mexican-Americans. If enacted some employers would be overzealous in enforcing their understanding of the provision, and would refuse to hire anyone distinguished by their skin color or accent as possibly being of foreign origin."

Finally, MALDEF considers the change of alien status element of the Administration's proposal to be fundamentally

objectionable. By offering permanent resident status only to those undocumented persons who have been continuously residing in this country prior to 1970, "the proposal wrongfully denies such status to persons who have built up substantial equities in our society." MALDEF is also opposed to the creation of the temporarily nondeportable class (anyone who has resided in this country continuously since before January 1, 1977 and after January 1, 1970). As an alternative policy, MALDEF argues that permanent resident status should be afforded to all persons who have resided continuously in the United States since July 4, 1976 or an alternative date like January 1, 1977.

2. Employees of Immigration and Naturalization Service

Seventy federal immigration officers in Chicago think that President Carter's plan to grant illegal aliens amnesty is a blueprint for national disaster. They are members of the National Immigration and Naturalization Service Council of the American Federation of Government Employees, but they are also reacting as taxpayers and private citizens and have made their views known in letters to Congress.

Providing unconditional and conditional amnesty to large groups of illegal aliens will place a tremendous economic and social burden on American taxpayers, they argue. And by legitimizing violations of United States immigration laws, Washington will be inviting more illegal aliens to come to the United States and take the chance that they will be granted a similar grant of immunity at some future date.

The immigration officers support federal and state legislation which would impose stiff penalties on American employers who "knowingly" hire illegal aliens. And they favor Carter's proposal to add 2,000 border patrolmen along the border to Mexico (although they doubt that this will stop or even significantly slow the flow of illegals into the United States).

That is why President Carter's amnesty proposal is unworkable. Thousands of illegal aliens already have entered the U.S. since January 1, 1977...and since the border cannot be shut off, it will only be a matter of time before another amnesty proposal will be necessary to legitimize the status of another large segment of Mexico's population. This is not only unacceptable, it is saying to the Mexican government that it can forget about almost 10 percent of its population, thereby alleviating that country's responsibilities for educating, feeding, and generally providing a better life for its many presently impoverished citizens.

The immigration officers estimated that no more than 500,000 persons in the country would qualify for immediate, permanent residence status, and that they represent only the crest of the wave. These individuals would then be eligible to petition the Immigration and Naturalization Service (INS) for their immediate relatives to immigrate, thereby swelling the total number of immigrants who would ultimately come to the United States to a figure over one million.

Under President Carter's second category of illegal aliens--those granted temporary residence in order to remain here and work--the immigration officers estimated that this means allowing more than 6 million illegal aliens to work in the United States. This would place a tremendous burden on our economy, our taxpayers and our institutions of government at every level. And the officers raise the issue of all those people who have been waiting to legally enter the United States, as they might think it better to slip across the border and take a chance at claiming they arrived much earlier. Carter's proposal is criticized as a stopgap measure that eventually will compound the problem, not solve it.

3. Position of the Zero Population Growth, Inc.

Last fall, the Zero Population Growth organization sponsored a debate on Carter's recommendations on illegal aliens in Chicago. Zero Population Growth (ZPG), an organization considered liberal for its promotion of birth control, access to abortions, and land-use planning, has taken a conservative stand on the illegal aliens issue.

ZPG is firmly convinced that the United States and the world are limited in growth that they can accommodate. ZPG has looked at this issue in terms of population projections.

Assuming the current total fertility rate of 1.8 children per woman is maintained indefinitely, and also assuming an annual immigration rate of 400,000 (the current rate of legal immigration), the United States will have a population of about 253 million persons in the year 2,000, 269 million persons in 2025 and 256 million persons by 2050. In contrast, if we assume a total fertility rate of 1.8 children and an immigration rate of 1.2 million (including 800,000 illegal entrants annually), the US population will be approximately 278 million in 2000; 324.5 million in 2025 and 342 million in 2050. (Source: Wirken, Melanie. "Border Hoppers," Skeptic Magazine, Inc. 1977.)

ZPG recommends that any United States immigration policy first decide:

whether our labor needs are being met by the American labor force or whether we need to import foreign workers, whether we want to continue to train the future leaders of the less developed countries, whether we will require foreign students to return to their homelands to put their training into practice whether we should foster tourism to the United States while doing little to ensure that the tourists don't plan to stay here forever.

Instead of passing new legislation setting penalties for employers who knowingly hire illegal aliens, ZPG recommends enforcing existing laws that involve employers. For instance, it is now illegal to hire workers in most jobs at less than the minimum wage. It is also unlawful for an employer to avoid reporting the earnings of his workers to the Internal Revenue Service on a quarterly basis. ZPG also recommends that illegal aliens be prohibited from participating in the many federal and State social service programs, and that smugglers of illegals be sought and convicted.

C. Other Federal Legislation Proposed

A number of bills have been submitted to Congress which would penalize those who employ illegal aliens. The best known is House Resolution 8713, introduced by Congressman Peter W. Rodino, Jr., of New Jersey. The Rodino bill would impose a warning on the first violation, a civil penalty for the second violation, and on the third a criminal penalty up to \$1,000 on employers who "knowingly" hire illegal aliens. This bill contains an amnesty provision--illegals who have been here since June, 1968 could remain as legal residents. The Rodino bill made it through the House in both the 92nd and 93rd Congress but has failed to obtain consideration in the Senate.

Congressman Mario Biaggi of New York has introduced House Resolution 5987, which would impose a six-month prison sentence or a fine equal to the cost of deportation for those who "knowingly" employ an illegal alien; a penalty also would be imposed on those who refer illegals for employment. Senator Edward Kennedy has proposed Senate Resolution 561 which, among other things, would impose civil penalties on employers of illegal aliens. Neither bill has been acted upon to date.

Chapter 5

WHAT CAN ILLINOIS DO ABOUT THE ILLEGAL ALIEN PROBLEM?

There is very little that the State of Illinois can do to combat the illegal alien problem, since the federal Immigration and Naturalization Service (INS) has the sole authority to arrest and deport illegal aliens. And the INS is severely hampered in its efforts by lack of manpower to handle the floods of illegals pouring into this country from Mexico, and later returning on a "revolving door" basis once they are arrested and deported to Mexico.

Several INS agents complained that they are further handcuffed by recent court cases and privacy laws which have restricted the agents' authority to question or detain suspicious persons. Without benefit of some form of national identification card, it is very difficult for the INS to single out certain individuals as possible illegal aliens. Recently, Leonel J. Castillo, Director of INS, has set two priorities for the INS investigators: go after those illegals who are earning substantial wages and are taking high-paying jobs away from legal aliens or United States citizens; and go after smuggling operations.

First violations of immigration law by an illegal alien are simple misdemeanors punishable by up to six months imprisonment and/or a \$500 fine. A second offense is a felony. An alien who has already been deported at least once and who enters illegally again can get two years in prison and a fine up to \$2,000. However, the cited sentences are rarely imposed. To prosecute a violator, the INS would have to submit evidence to a United States Attorney, who would then decide whether he wanted to add an immigration violation to an already crowded case load. Obviously, prosecution is normally waived, thus, there are few penalties for and no practical deterrents to violating the law.

In our 1971 report on illegal aliens we indicated that some illegal aliens defraud the state by not paying their state income tax. At the same time, they took millions in employment income--much of which was sent back to Mexico. Under federal law it is unlawful for a Mexican alien to be in the United States without an alien registration card but, there is currently no federal law to prohibit an employer from hiring an illegal alien.

The only way that the State of Illinois can hope to deal with the illegal alien problem is through passage of legislation which would penalize those who employ illegal aliens.

This attacks the heart of the problem, since illegal aliens come to the United States for jobs--to make money. We recognize that this is not a panacea and that it will really only affect those employers who blatantly hire illegals and continue to do so in spite of arrests made by the INS. But it is the only tool that the State has to help deter illegals from coming to Illinois. And it may force employers to be more careful in their screening process of job applicants.

A. Summary of the Commission's Bill

1. Legislative History

The Commission's 1971 report on Illegal Mexican Aliens included draft legislation to prohibit employers from employing illegal aliens. This legislation prescribed that as a prerequisite to employment every "employer shall demand and receive proof by the job applicant or prospective employee of his citizenship or legal residence in the United States."

An employer who violated this act could be fined up to \$5,000 for the first offense, and for the second or subsequent offense not less than \$1,000 nor more than \$10,000."

This bill (House Bill 4136) was introduced in April, 1972, and died in the Senate Judiciary Committee. The bill was attacked as unconstitutional because it infringed on the exclusive right of the federal government to regulate immigration. Consequently, nothing was done to deal with the problem.

However, in February, 1976, the United States Supreme Court handed down a decision in the case of DeCanas v. Bica, 424 US 351 (1976), which gave states the power to take action against illegal aliens. The Court found that a similar law adopted by the State of California fell within the State's authority. Justice William Brennan delivered the unanimous opinion of the Court and stated:

States possess broad authority under their police powers to regulate employment relationships to protect workers within the State. Child labor laws, minimum and other wage laws, laws affecting occupational health and safety, and workmen's compensation laws are only a few examples. California's attempt in § 2805 (a) to prohibit the knowing employment by California employers of persons not entitled to lawful residence in the United States, let alone to work here, is certainly within the mainstream of such police power regulation. Employment of illegal aliens in times of high unemployment deprives citizens and legally admitted aliens of jobs; acceptance of illegal aliens of jobs on substandard terms as

to wages and working conditions of citizens and legally admitted aliens; and employment of illegal aliens under such conditions can diminish the effectiveness of labor unions. ... In attempting to protect California's fiscal interests and lawfully resident labor force from the deleterious effects on its economy resulting from the employment of illegal aliens, § 2805 (a) focuses directly upon these essentially local problems and is tailored to combat effectively the perceived evils.

Leonard Chapman, former Commissioner of the INS, commented, "We have seen some evidence that such legislation will work. When such a law was in effect for a brief time in California, thousands of illegal aliens began leaving the state, some heading north to Oregon and Washington, others returning to Mexico. Our immigration officers reported that many came into our offices and asked to be returned to their own countries, because they believed they could no longer obtain employment. Employers also contacted us seeking advice and assistance."

In 1977, the Commission staff helped the late Commission Co-Chairman Joseph Sevcik revise the Commission's original illegal alien bill. This second bill was introduced as an amendment to House Bill 230 on February 10, 1977--five years after the first bill. Again the bill got through the House and was sent to the Senate where it failed on third reading.

2. The New Bill Proposed by the Commission

This will be the third time that the Commission has proposed legislation to prohibit employers from "knowingly hiring" illegal aliens. This legislation has been reviewed by officials from the Chicago branch of the Immigration and Naturalization Service (INS) and the Illinois Department of Labor (IDOL). The INS supports the bill and IDOL is interested in working with the Commission on ideas to enforce the bill. Our bill is patterned after legislation already adopted in other states. A complete copy of the proposed bill is included in Appendix B.

The United States Supreme Court has upheld an employer's right to refuse to hire a person, who is not a United States citizen in Espinoza v. Farah Manufacturing Company, 414 US 86 (1973). In this case, the Court ruled that an employer's refusal to hire a person because he is not a United States citizen does not constitute employment discrimination. An employer may refuse to hire someone because he is an alien--legal or illegal, so long as that discrimination does not amount to a pattern of discrimination based on national origin--such as a flat refusal to hire anyone of Mexican ancestry, whether a legal citizen or not.

A key element of the Commission sponsored bill provides employers with a defense against prosecution. Under this Act, an employer can easily protect himself from charges by requiring that all applicants be asked "Are you a United States citizen?" on an employment application. If the answer is no, it follows that the employer should require the applicant to provide the appropriate identification which would enable him to hold employment in the United States. By asking this question of all applicants, an employer can avoid the charge that he discriminated against Mexicans or those suspected of being Mexican.

While the Commission is sensitive to the responsibility that this bill places on the employer, we feel that the problem is serious enough that employers must be more careful in their employment screening processes. And any employer who knowingly and repeatedly hires illegal aliens for his own economic advantage should be punished. Any employer found guilty of violating any provision of this Act is "guilty of a business offense and shall be fined for the first offense in the amount of \$1,000, and for each subsequent offense not less than \$2,000 nor more than \$10,000.

Under the Commission proposed bill, prima facie evidence of a violation of this Act would include any of the following:

1. payment by the employer to an employee of wages less than prescribed as the minimum wage by federal or state statute, in effect at the time of employment;
2. failure of the employer to withhold Federal Income tax or Social Security tax from the gross earnings of an employee, when so required by federal statute;
3. failure of the employer to withhold State of Illinois Income Tax from an employee's gross earnings, or contribute any and all amounts lawfully due under unemployment compensation laws, with respect to any employee."

To defend himself against this charge an employer would have the affirmative responsibility of proving that he required the employee to attest to his or her citizenship or legal alienage as a prerequisite of employment, and that he has written proof of this affirmation, (for example, a completed employment application).

The Illinois Department of Labor would be responsible for promulgating rules and regulations to insure compliance with the provisions of the Act and to enforce the Act. And the State's Attorney's Office in the county in which the violation occurred would be responsible for prosecuting the violation.

B. Reaction to the Proposed Legislation

1. Other States with Similar Laws

During the course of our investigation, we wrote to ten other states that have legislation dealing with employers who "knowingly hire" illegal aliens, asking them for an evaluation of how their law has worked and if there is any measurable impact. The states consulted were California, Connecticut, Delaware, Kansas, Massachusetts, Montana, Maine, New Hampshire, Vermont and Virginia.

In California, the state has been permanently enjoined from enforcing their law for two reasons. First, the United States Supreme Court decision (DeCanas v. Bica) returned the case to the Appellate Court for further consideration in light of the Supreme Court's decision. However, by the time the Supreme Court decided, the issue had become moot since an out-of-court settlement had already been reached. Consequently the Appellate Court never reviewed the case as the Supreme Court directed. Second, Albert Reyff, Assistant to the California State Labor Commissioner, said that the state decided not to try to have the injunction lifted because their legal counsel had advised them that the original law was defective because of vague language. The law is also politically unpopular now and many of the groups that originally supported it have withdrawn support. So the Supreme Court decision is really a hollow victory for the State of California.

Reyff added that California has decided not to initiate any further action to deal with the illegal alien problem until the federal government provides some form of solid policy direction. Instead, Reyff said that California is using the state and federal labor laws to try to deal with the illegal alien problem and reduce some of the economic incentives for hiring illegals. It is too soon to evaluate this program's impact because it has just begun.

In Kansas, one employer had been prosecuted under that State's statute and was fined \$250. The case involved an illegal alien who had already been deported once after having worked for the employer in question, so proof of "knowingly" hiring the illegal was no problem. The employer plead guilty.

New Hampshire has had no complaints or other reports since the enactment of their law. In response to our questionnaire, Edward F. Smith, General Counsel for the State Department of Employment Security said that he felt "such legislation achieves no useful purpose."

Frank Santaguida, Labor Commissioner of Connecticut, explained how their law is enforced:

When notification is received, usually from the Immigration and Naturalization Service, of an illegal alien working for a particular employer, a form letter is sent to the employer informing him that he may be in violation of a State Statute, to check the status of the alien, and to terminate him if he is not authorized to work. Upon receiving a second notification that the employer is employing an illegal alien, the employer is sent a second, stronger letter directing him to contact the Labor Department to explain his actions prior to the department's taking legal action. Most of the time, the problem can be resolved satisfactorily. In two instances, the cases have been submitted to the State prosecutor and both times he refused to pursue the prosecution. The prosecutor's opinions in both cases were that, unless he could prove that the employers benefited financially from hiring illegal aliens, it would be difficult to prove they "knowingly" hired illegal aliens. In each case, a payroll audit showed that the employers paid the illegal aliens the same as they paid other workers similarly employed.

Although their bill has had no significant impact on reducing the number of illegal aliens, Santaguida said that it has reduced the number of illegal aliens employed. *(A copy of the letter sent to the employers in violation of Connecticut's statute is included in Appendix A.)*

2. Others React to the Proposed Bill

Hispanic organizations, which typically protect the interests of Mexican Americans who are legal aliens, strongly object to the passage of a bill which would penalize employers for knowingly hiring illegal aliens. They argue that the bill would inevitably lead to discrimination against any person with brown skin who applies for a job. They contend that because employers would not want to be charged with hiring an illegal--they would never take a chance on hiring anyone who is Mexican.

Father Victor Lopez, a Mexican leader in Joliet, said that the proposed sanctions against employers are totally unenforcable and that the business community will not tolerate

being told how to run their business. The Mexican American Legal Defense Educational Fund is also opposed to a bill like the one being proposed by the Commission for the same reasons. (See Chapter 4.)

Several business associations were polled by Commission agents to determine their reaction to the proposed legislation. Terry Fitzgerald, staff attorney for the Illinois Retail Merchant's Association said that their association favors employer sanctions but that, the trick is determining how an employer "knowingly" employs an illegal. Orville Bergren, President of the Illinois Manufacturer's Association said that employers should do their part to cooperate with INS agents and make reasonable attempts to certify the identification of an employee. But he said that going to the extent of checking birth certificates is ridiculous and no state statute should burden the employers. Gordon A. Moon, II, editor of Commerce magazine for the Chicago Association of Commerce and Industry said that this association does not believe that employers should be held responsible and that they are not in favor of employer sanctions. (Other reactions of businessmen in Joliet are contained in Chapter 3, pages 17-21.)

The Commission is aware of the shortcomings of the employer sanction bill; it will be difficult to enforce, and it places additional responsibilities on the employer. However, as Ted Giorgetti of the Chicago INS office said, those employers who honestly want to comply with the law, and who may have been fair in their hiring procedures, may start making inquiries and discourage illegals from applying for jobs. The benefits of this legislation lie in the deterrent effect it is expected to have on employers who blatantly hire illegal aliens. This bill alone will not significantly reduce the number of illegal aliens in the state; law enforcement at the border between the United States and Mexico, and efforts in the Chicago area to arrest and deport those who are already here illegally must be improved.

In addition, the Commission calls on businesses to follow the example set by National Can Corporation and other large corporations of publicly announcing that they are not interested in hiring illegal aliens. National Can has taken affirmative action by asking anyone hired to sign a statement that he has a legal right to be in the United States and to work in this country. And the company has made it clear that all of its plants are open to regular inspection by the United States Immigration Service. National Can sees its role as discouraging illegals from applying for jobs--not to uncover illegals that may already be working, as that is INS's responsibility. National Can's example is seen as a voluntary move by business to avoid federal or state imposed rules in detecting illegals.

Appendix A

COPY OF THE NOTICE SENT TO EMPLOYERS IN VIOLATION OF
CONNECTICUT'S "ILLEGAL ALIEN LAW,"
BY THE STATE LABOR DEPARTMENT

Gentlemen:

Re:

SS#

The United States Department of Justice Immigration and Naturalization Service has notified this office that your firm was the employer of the person listed above, an alien not entitled to lawful residence in the United States.

Connecticut Public Act No. 275 prohibits the hiring and employment of aliens not entitled to lawful residence. Section 1 of this Act stipulates no employer shall knowingly employ such an alien. A copy of this Act and the Regulations concerning its implementation are enclosed.

If the above named alien is still employed by your firm, he must be terminated immediately, unless he has since obtained one of the documents described below authorizing employment.

To insure your compliance with Public Act No. 275 it is urgent that the following action be taken:

1. Check each alien on your current payroll to determine "lawful residence." Acceptable identification must be obtained from one of the following documents:

- a. FORM I-151, ALIEN REGISTRATION RECEIPT CARD.

This form is issued to an alien who in any manner becomes a lawful permanent resident of the U.S. EMPLOYMENT IS PERMITTED. The laminated 2" x 3½" card is generally green or blue and may or may not contain a picture of the alien along with his name and Registration Number.

- b. FORM I-94, ARRIVAL-DEPARTURE RECORD.

The 3" x 5" card is issued to aliens admitted temporarily and shows the date on which admitted and any extensions authorized. Generally, employment

is NOT permitted. However, in some instances, employment may be permitted by permission from the U.S. Immigration Service. The alien's Arrival-Departure/Form I-94 will be clearly dated and stamped "employment Authorized."

c. FORM I-94, ARRIVAL-DEPARTURE RECORD, PAROLE EDITION.

This edition of Form I-94 is issued to aliens who have been paroled into the U.S. and shows the date on which paroled and other limitations. Except for emergencies, medical treatment or similar limited paroles, employment is generally permitted.

d. All other types of documents presented by an alien may be clarified by contacting the U.S. Department of Justice Immigration and Naturalization Service, 900 Asylum Avenue, Hartford, Connecticut 06105. An alien who possesses a Visitor's Visa classified B-2 is not permitted employment.

2. Inform all personnel or hiring agents for your firm of the Connecticut Regulations.

FUTURE VIOLATIONS OF THIS ACT MAY RESULT IN PROSECUTION.

Sincerely yours,

Frank Santaguida /s/

FRANK SANTAGUIDA
Labor Commissioner

Enc.

Appendix B

AN ACT to prohibit the employment in this state of aliens who are in the United States illegally.

Be it enacted by the People of the State of Illinois represented in the General Assembly:

Section 1. Findings and Declaration of Intent.]

The General Assembly has found and declares: that the General Assembly is charged with protecting the health, safety and welfare of Illinois citizens, assuring legal, social and economic justice, eliminating poverty and inequality, and providing opportunity for the fullest development of the individual;

that to prohibit the employment of illegal aliens pursuant to this Act is in furtherance of promoting the employment opportunities, general welfare, and economic interest of the people of this State;

that the problem of illegal alien employment in this State is of major proportions necessitating the imposition of criminal sanctions to meet the General Assembly's responsibility to the citizens of this State.

Section 2. Definitions.] As used in this Act, unless the context otherwise requires, the following terms have the meanings ascribed to them herein:

"Alien" means any person not a citizen or not a national of the United States.

"Illegal Alien" means any person not a citizen who:

1) illegally entered the United States in violation of the Federal Immigration and Naturalization Act or the rules and regulations promulgated thereunder; or

2) legally entered the United States but without right to be employed in this country and is subsequently gainfully employed;

3) legally entered this country subject to a time limit but has remained illegally following expiration of such time limit.

"Agent" means any person having express, implied or apparent authority to act on behalf of another.

"Employee" means any person rendering a service or benefit to another under a contract for hire, express or implied, oral or written, for wages, salary or other consideration regardless of who may have employed him or who has the direct right to discharge him.

"Employer" means any person, partnership, corporation, association, or other legal entity who directly or indirectly engages or utilizes the services of another under a contract for hire, oral or written, express or implied, for a salary, wage or other consideration.

"Labor Contractor" means any person, employment agency, temporary work service, or labor union, who contracts or covenants with another to supply labor for work to be performed.

"National" means a citizen of the United States or one, not a citizen, who owes permanent allegiance to the United States.

Section 3. Prohibited Activity.] A) It is unlawful for any employer, prospective employer, labor contractor, or agent of an employer or labor contractor to knowingly solicit or refer for employment, employ, use, or hire, or continue to employ, use, hire, or solicit for employment an illegal alien;

B) It is unlawful for any employer or prospective employer, to falsely swear, affirm, or represent that an employee or prospective employee is a legal alien or citizen or to present false or misleading documentation as to citizenship or alienage of said employee or prospective employee.

Section 4. Defense.] A party charged with a violation of any provision of this Act may, as a defense, show that he, his principal, partner or agent, required as a prerequisite of employment, the written affirmation of the employee attesting to his citizenship or legal alienage.

Section 5. Prima Facie Evidence.] For purposes of this act and irrespective of any defense which an employer may present as set out in Section 4 of this Act, the following shall constitute prima facie evidence of a violation of this act:

1) payment by the employer to an employee of wages less than that prescribed as the minimum wage by federal or state statute, where applicable, in effect at the time of employment;

2) failure of the employer to withhold Federal Income Tax or Social Security Tax from the gross earnings of an employee, when so required by federal statute;

3) failure of the employer to withhold State of Illinois Income Tax from an employee's gross earnings, or contribute any and all amounts lawfully due under unemployment compensation law, with respect to any employee.

Section 6. Penalties.] A) Any employer, prospective employer, labor contractor, or any agent of an employer, prospective employer, or labor contractor who violates any provision of this Act is guilty of a business offense and shall be fined for the first offense in the amount of \$1,000, and for each subsequent offense not less than \$2,000 nor more than \$10,000.

B. Each employment, use, hiring, solicitation for employment, or continued employment or use of an illegal alien shall constitute a separate offense.

C) Each contract, covenant, or referral for employment of an illegal alien shall constitute a separate offense.

D) Each false affirmation, representation, assurance, or guarantee, or the submission of false or misleading documentation as to citizenship or alienage by a labor contractor, agent of a labor contractor, employer, agent of an employer, shall constitute a separate offense.

E) All partners of a partnership, or all officers and/or directors of a corporation, or all officers of an association or other legal entity who knowingly or intentionally aided or abetted, acquiesced, or participated in a violation of any provision of this Act shall each be deemed guilty of a business offense and shall be severally liable, in accordance with this Act, in addition to the partnership, corporation, association, or other legal entity.

F) The conviction or failure to prosecute or convict any person found to have violated any provision of this Act shall not be a bar to the prosecution or conviction of another party to the same transaction or one legally accountable for the conduct of any party to the transaction which is the basis for prosecution or conviction under this Act.

G) The foregoing provision shall not be a bar to any civil action against any person based upon a violation of any provision of this Act.

Section 7. Proviso.] Nothing in this Act shall be considered as providing a basis for the assumption or presumption of discrimination against an employee, prospective employee, or applicant for employment in violation of the Illinois Fair Employment Practices Act or the Federal Civil Rights Act of 1964, or any act, statute, or regulation concerning employment practices in this State.

Section 8. Severability of invalid provisions.] If any provision of this Act or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 9. Enforcement.] The Director of the Department of Labor shall promulgate rules and regulations necessary to insure compliance with the provisions of this Act, and to carry out vigilant and effective enforcement of this Act and its provisions.

All violations of this Act shall be referred to the State's Attorney's office in the county in which the violation occurred or the party charged with violating this Act resides, for that office's vigorous prosecution of the alleged violation.

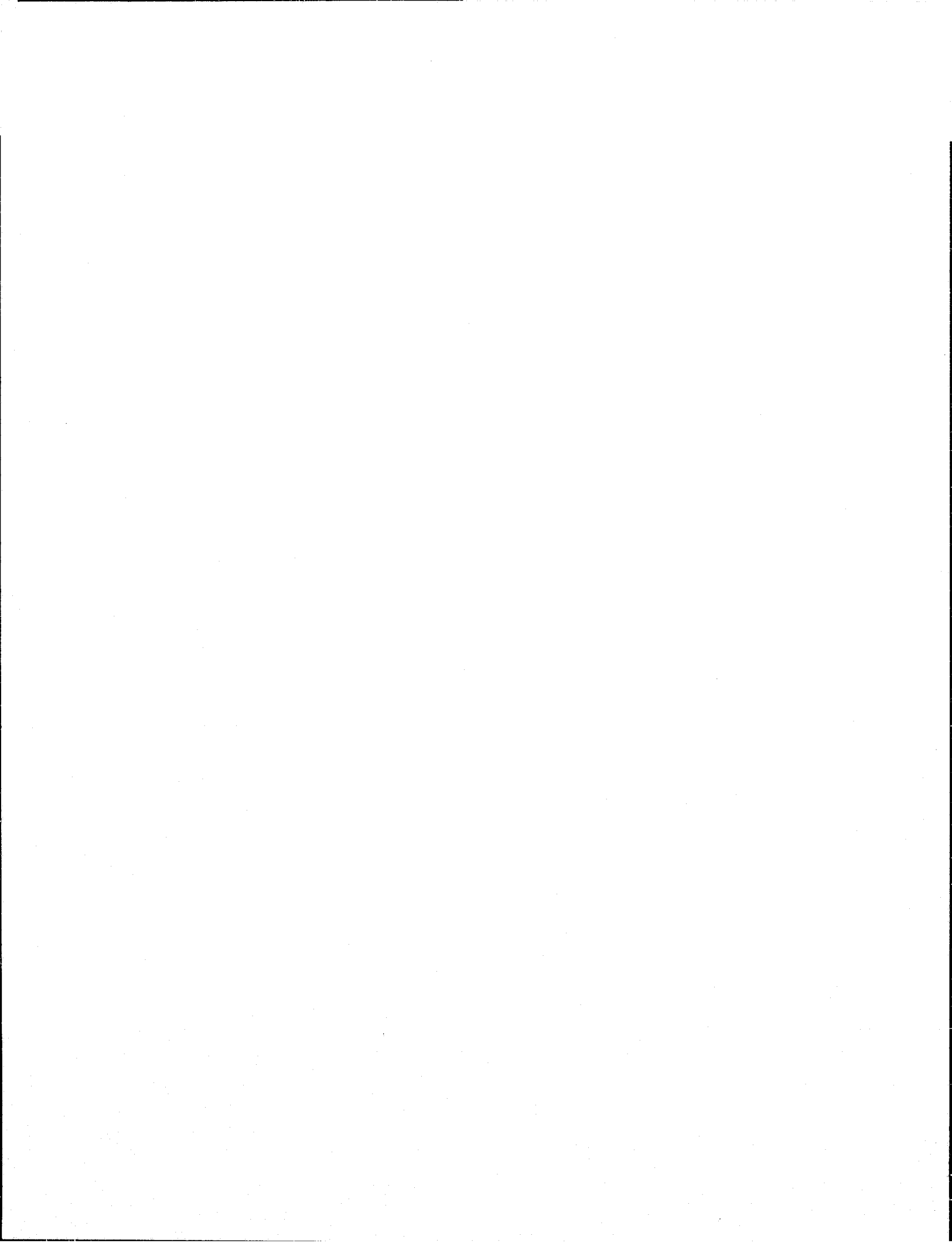
Appendix C

ACKNOWLEDGEMENTS

The Commission would like to express its gratitude to the Chicago office of the United States Immigration and Naturalization Service (INS) for their cooperation in this investigation. Many of their investigators in the anti-smuggling and "area control units" spent considerable time working with Commission investigators.

Among those who deserve special thanks, are Gary Renick and Hipolito Acosta of the anti-smuggling unit, and Kenneth Crane and James McIntyre who were in the "area control unit" at the time of the Commission's investigation.

Mr. Ted Giorgetti, Assistant District Director of Investigations is to be commended for his efforts in assisting this Commission not only in this investigation, but also previous investigations by the Commission into the illegal alien problem.



END